

**ITEM \_\_\_\_**

**RECONSIDERATION OF PRIOR STATEMENT OF DECISION  
DRAFT STAFF ANALYSIS**

Statutes 1975, Chapter 486; Statutes 1984, Chapter 1459

*Mandate Reimbursement Process*

05-RL-4204-02

CSM 4204 & 4485

Reconsideration Directed by Statutes 2005, Chapter 72, Section 17 (Assem. Bill No.138)

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**EXECUTIVE SUMMARY**

In November 1985, the County of Fresno submitted a test claim alleging that Statutes 1975, chapter 486 and Statutes 1984, chapter 1459 ("test claim statutes") constitute a reimbursable state-mandated program. The test claim statutes provide the claiming procedure before the Board of Control (ch. 486) and the Commission on State Mandates (ch. 1459) for reimbursement of costs mandated by the state under article XIII B, section 6 of the California Constitution. The Commission found that the test claim statutes constitute a reimbursable state-mandated program.

Statutes 2005, chapter 72, section 17 (Assem. Bill No. 138) directs the Commission on State Mandates ("Commission") to reconsider whether the *Mandate Reimbursement Process* program (CSM Nos. 4204 & 4485) constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, in light of subsequently enacted state or federal statutes or case law. The Commission's decision is to be effective July 1, 2006, so that costs incurred up to that date would be reimbursable.

Comments were submitted by the County of Los Angeles and the City of Newport Beach stating various reasons why the Commission's original decision was correct.

Because Statutes 1975, chapter 486 was repealed by Statutes 1986, chapter 879, staff finds that it no longer imposes a state-mandated program. As to the 1984 test claim statute, Government Code section 17556, subdivision (f) prohibits the Commission from finding costs mandated by the state if:

The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

Applying this statute, staff finds that Statutes 1984, chapter 1459 is reasonably within the scope of or necessary to implement article XIII B, section 6 which was enacted in Proposition 4, a ballot measure approved in a statewide election. Therefore, staff finds that the test claim statutes do not constitute a reimbursable state mandated program, and recommends that the Commission adopt this analysis to deny the test claim effective July 1, 2006.

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## STAFF ANALYSIS

### Chronology

11/27/85	Test Claim filed by County of Fresno, Claimant
04/24/86	Commission on State Mandates (“Commission”) adopted Statement of Decision
11/20/86	Commission adopted parameters and guidelines
03/23/87	Commission amended parameters and guidelines
06/25/87	Commission adopted statewide cost estimate
10/26/95	Commission amended parameters and guidelines
01/30/97	Commission amended parameters and guidelines
9/25/97	Commission amended parameters and guidelines
10/29/98	Commission amended parameters and guidelines
09/30/99	Commission amended parameters and guidelines
9/28/00	Commission amended parameters and guidelines
10/25/01	Commission amended parameters and guidelines
02/27/03	Commission amended parameters and guidelines
09/25/03	Commission amended parameters and guidelines
12/09/04	Commission amended parameters and guidelines
07/19/05	Legislature enacted Assembly Bill 138, an urgency statute requiring the Commission to reconsider the <i>Mandate Reimbursement Process</i> program
09/27/05	Commission amended parameters and guidelines
12/22/05	County of Los Angeles submits comments on the reconsideration
12/23/05	City of Newport Beach submits comments on the reconsideration
02/23/06	Commission issues draft staff analysis on the reconsideration

### Background

Statutes 2005, chapter 72, section 17 (Assem. Bill No. 138) directs the Commission to reconsider whether the *Mandate Reimbursement Process* mandate constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, as follows:

(a) Notwithstanding any other provision of law, the Commission on State Mandates, no later than June 30, 2006, shall reconsider its test claim statement of decision in CSM-4202 on the Mandate Reimbursement Program to determine whether Chapter 486 of the Statutes of 1975 and Chapter 1459 of the Statutes of 1984 constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal and state statutes enacted and federal and state court decisions rendered since these statutes were enacted. If a new test claim is filed on Chapter 890 of the Statutes of 2004, the commission shall, if

practicable, hear and determine the new test claim at the same time as the reconsideration of CSM-4202. The commission, if necessary, shall revise its parameters and guidelines in CSM-4485 to be consistent with this reconsideration and, if practicable, shall include a reasonable reimbursement methodology as defined in Section 17518.5 of the Government Code. If the parameters and guidelines are revised, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Any changes by the commission to the original statement of decision in CSM-4202 shall be deemed effective on July 1, 2006.

### The Test Claim Statutes

Statutes 1975, chapter 486 and Statutes 1984, chapter 1459 establish the reimbursement process for state mandated programs. Chapter 486 was enacted four years before article XIII B, section 6, much of which was based on the provisions in the Revenue and Taxation Code.<sup>1</sup> Chapter 459, on the other hand, is a legislative implementation of article XIII B, section 6.<sup>2</sup> Chapter 486 established the reimbursement process before the Board of Control (Rev. & Tax Code, § 2240 et seq.), while chapter 1459 established the reimbursement process before the Commission on State Mandates (Gov. Code, § 17500 et seq.). Government Code section 17500's stated legislative intent, until amended by Statutes 2004, chapter 890, was "to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution."

Chapter 486 added articles 3 and 3.5 to Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code. Section 2250 in chapter 3.5 states:

The State Board of Control, pursuant to the provisions of this article, shall hear and decide upon a claim by a local agency or school district that such local agency or school district has not been reimbursed for all costs mandated by the state as required by Section 2229, 2230 or 2231 and by Article 3 (commencing with Section 2240).

Similarly, chapter 1459,<sup>3</sup> requires the Commission to hear and decide claims, and provides the "sole and exclusive procedure" by which local agencies or school districts may claim reimbursement.<sup>4</sup>

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<sup>1</sup> A number of former Revenue and Taxation Code sections predate article XIII B, section 6 and even the 1975 test claim statute: for example, those added or amended by Statutes 1972, chapter 1406, Statutes 1973, chapter 358, and Statutes 1974, chapter 457.

<sup>2</sup> Government Code section 17500 et seq. is the legislative implementation of article XIII B, section 6. *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal. App. 4th 976, 984.

<sup>3</sup> Government Code sections 17550 and 17551.

<sup>4</sup> Government Code section 17552.

## Commission Statement of Decision and Parameters and Guidelines

On April 24, 1986, the Commission adopted the *Mandate Reimbursement Process* Statement of Decision, determining that the test claim statutes impose a reimbursable mandate on local agencies and school districts. On November 20, 1986, the Commission adopted parameters and guidelines,<sup>5</sup> determining that the following activities are reimbursable:

### A. Scope of the Mandate

Local agencies and school districts filing successful test claims and reimbursement claims incur State-mandated costs. The purpose of this test claim was to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state mandated costs—both direct and indirect—are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of State-imposed mandates, all resulting costs are recoverable.

### B. Reimbursable Activities—Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including court responses, if an adverse Commission ruling is later reversed.<sup>[6]</sup> These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and allowable overhead.

### C. Reimbursable Activities –Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and overhead.

Incorrect Reduction Claims are considered to be an element of the reimbursement claim process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on

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<sup>5</sup> See pages 229-230 of the Administrative Record.

<sup>6</sup> The phrase, “including court responses, if an adverse Commission ruling is later reversed” was amended out in March 1987 and replaced with “including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order.” (See Administrative Record, p. 229).

State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

In addition to the March 1987 amendment (see fn. 6), the parameters and guidelines have been amended 11 times between 1995 and 2005. The 1995 amendment was the result of a provision in the state budget act that limited reimbursement for independent contractor costs for preparation and submission of reimbursement claims.<sup>7</sup> Identical amendments were required by the Budget Acts of 1996 (amended Jan 1997),<sup>8</sup> 1997 (amended Sept. 1997),<sup>9</sup> 1998 (amended Oct. 1998),<sup>10</sup> 1999 (amended Sept. 1999),<sup>11</sup> 2000 (amended Sept. 2000),<sup>12</sup> 2001 (amended Oct. 2001),<sup>13</sup> 2002 (amended Feb. 2003),<sup>14</sup> 2003 (amended Sept. 2003),<sup>15</sup> 2004 (amended Dec. 2004),<sup>16</sup> and 2005 (amended Sept. 2005).<sup>17</sup> In addition to technical amendments, the language in the parameters and guidelines was updated as necessary for consistency with other recently adopted parameters and guidelines.

### **State Agency Position**

No state agencies submitted comments on this reconsideration. The statements of the state parties in the original test claim are in the Administrative Record (pp. 29-32 & 127-130).

### **Local Agency Positions**

The County of Los Angeles, (“Los Angeles”) in comments submitted December 22, 2005, argues that section 6 of article XIII B of the California Constitution does not prohibit reimbursing claiming costs for allowable state mandated programs, and states it is “the only way that the State has established to meet its constitutional obligation to local governments.” Los Angeles also reiterates the County of Fresno’s (“Fresno” the original claimant) argument that the state has chosen, from other alternatives, a costly claiming procedure for meeting its obligation under

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<sup>7</sup> Administrative Record, page 295 et seq. (especially pp. 302-303).

<sup>8</sup> Administrative Record, pages 355-426, especially page 425.

<sup>9</sup> Administrative Record, pages 427-473.

<sup>10</sup> Administrative Record, pages 477-551. This amendment also removed the cap on claims for legal costs, so that those costs would be claimed under the contracted services provision.

<sup>11</sup> Administrative Record, pages 569-678. This amendment also updated text to conform with 1998 amendments to the Commission’s statutory scheme, updated parameters and guidelines text, and included reimbursement for participation in Commission workshops.

<sup>12</sup> Administrative Record, pages 679-736.

<sup>13</sup> Administrative Record, pages 737-763.

<sup>14</sup> Administrative Record, pages 781-904.

<sup>15</sup> Administrative Record, pages 905-986.

<sup>16</sup> Administrative Record, pages 987-1044.

<sup>17</sup> Administrative Record, pages 1045-1106.

article XIII B, section 6 thereby making the preparation and processing of claims a mandate on the state and local government. Los Angeles repeats the findings in the original statement of decision, as well as Fresno's arguments that the claims reimbursement process is not a voluntary one. Los Angeles quotes from *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876 to point out that mandate reimbursement processing required under the test claim legislation is a mandatory program, and that no federal law is implicated. Los Angeles also asserts that the mandate reimbursement process ("MRP") is an administrative one that must be exhausted before litigation, and that the original SB 90 legislation was a state-local partnership. According to Los Angeles, if reimbursement is excluded for the MRP, the original intent of SB 90 is violated because local agencies are no longer protected from state mandates. Finally, Los Angeles cites *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, which states "Unsupported legislative disclaimers are insufficient to defeat reimbursement" and "The Legislature cannot limit a constitutional right." Los Angeles attaches a declaration that, among other things, claiming costs are well in excess of \$1000 annually.

On December 23, 2005, the City of Newport Beach ("Newport Beach") also filed comments, the gist of which is that "the activities of the MRP program were properly found by the Commission to be reimbursable state-mandated activities within the meaning of Article XIII B, section 6, of the California Constitution and the recent case law does nothing to disturb that initial decision."

As to the argument that the mandate reimbursement process predated 1975, Newport Beach argues the claiming process is far more complex and involves far more resources than is described in former Revenue and Taxation Code section 2164.3. Further, Newport Beach states that MRP is part and parcel of each individual state-mandated program, and the new program or higher level of service at issue can be found in the compliance with the new claiming instructions. Thus, the date that the underlying program is established is also the date the MRP portion of that program is established, so the MRP mandate is not the result of a statute enacted before 1975. As to whether the MRP is "reasonably within the scope" of an initiative (Proposition 4, which established article XIII B, section 6) Newport Beach cites the history of Propositions 13 and 4, concluding that the MRP process "is not necessary to implement, nor is even conceivably within the scope of duties necessary to implement the constitutional provisions enacted by the people." Newport Beach also notes that the present claiming instructions consist of 633 pages of forms and instructions for local governments to claim reimbursement, alleging that "... the administrative process was not adopted by the people with the passage of Proposition 9 [sic] which enacted Article XIII B, Section 6. ... The people of the State of California did not envision this sort of process when it enacted Article XIII B, section 6."

Newport Beach also states that the MRP program is not voluntary. After discussing *San Diego Unified School Dist. v. Commission on State Mandates*, *supra*, 33 Cal.4th 859 and *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, Newport Beach distinguishes *City of Merced* and states, "Once the state embarked on creating the administrative process currently in place, the claimants are bound to follow it – failure to do so results in a loss of the constitutionally guaranteed reimbursement."

No other local agencies or school districts provided comments on the reconsideration.

## Discussion

The courts have found that article XIII B, section 6 of the California Constitution<sup>18</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>19</sup> “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>20</sup> A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.<sup>21</sup>

In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.<sup>22</sup>

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>23</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

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<sup>18</sup> Article XIII B, section 6, subdivision (a), (as amended in November 2004) provides:

(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>19</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>20</sup> *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

<sup>21</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>22</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

<sup>23</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

legislation.<sup>24</sup> A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”<sup>25</sup>

Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>26</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>27</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>28</sup>

**Issue 1: Commission jurisdiction and effective date of decision.**

Administrative agencies, such as the Commission, are entities of limited jurisdiction that have only the powers that have been conferred on them, expressly or by implication, by statute or constitution. The Commission’s jurisdiction in this case is based solely on Statutes 2005, chapter 72, the reconsideration statute. Absent this statute, the Commission would have no jurisdiction to review and reconsider its decision on MRP since the decision was adopted and issued well over 30 days ago.<sup>29</sup>

Thus, the Commission must act within the jurisdiction granted by Statutes 2005, chapter 72, and may not substitute its judgment regarding the scope of its jurisdiction on reconsideration for that of the Legislature.<sup>30</sup> Since an action by the Commission is void if its action is in excess of the powers conferred by statute, the Commission must narrowly construe the provisions of Statutes 2005, chapter 72.

Section 17 of chapter 72 of Statutes 2005, as cited above, includes the following: “Any changes by the commission to the original statement of decision in CSM-4202 shall be deemed effective on July 1, 2006.” Local agencies and school districts have incurred costs in preparing claims that are currently pending before the Commission. Thus, in order to avoid retroactive application of

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<sup>24</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

<sup>25</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

<sup>26</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>27</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>28</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>29</sup> Government Code section 17559.

<sup>30</sup> *Cal. State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 346-347.



the statute,<sup>31</sup> staff finds that this decision on reconsideration applies to any costs incurred pursuant to Statutes 1984, chapter 1459, on or after July 1, 2006.

**Issue 2: Do the test claim statutes impose “costs mandated by the state” on local agencies or school districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556?**

In order for the test claim statute to impose a reimbursable state-mandated program under the California Constitution, the test claim legislation must impose costs mandated by the state.<sup>32</sup> In addition, no statutory exceptions listed in Government Code section 17556 can apply.

Government Code section 17514 defines “cost mandated by the state” as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The test claim statutes in the former Revenue and Taxation Code sections (enacted by Stats. 1975, ch. 486) were repealed by Statutes 1986, chapter 879, so staff finds that they no longer impose costs mandated by the state.

As to the other test claim statute, Statutes 1986, chapter 1459, the issue is whether Government Code section 17556, subdivision (f) (as amended by Stats. 2005, ch. 72, Assem. Bill No. 138, eff. Jul.19.2005.), applies to it, which states:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that: [¶]...[¶]

(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

Staff finds that this section applies to Statutes 1986, chapter 1459; and thus, it does not impose ‘costs mandated by the state’ within the meaning of Government Code section 17556.

Article XIII B, section 6 is a Constitutional initiative enacted in 1979 by Proposition 4. In interpreting the Constitution and Government Code section 17556, subdivision (f), it is important to remember the following:

In interpreting a legislative enactment with respect to a provision of the California Constitution, we bear in mind the following fundamental principles: ... [A]ll intendments favor the exercise of the Legislature’s plenary authority: If there is

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<sup>31</sup> *McClung v. Employment Development Department* (2004) 34 Cal. 4th 467, 475.

<sup>32</sup> *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action. Such restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used.<sup>33</sup>

And one court called Government Code section 17556 a legislative interpretation of section 6.<sup>34</sup>

Government Code section 17500 et seq. (Stats. 1984, ch. 1459, an original test claim statute) was enacted to implement article XIII B, section 6. Government Code section 17500 expressly states that the legislative intent "in enacting this part [is] to provide for the implementation of Section 6 of Article XIII B of the California Constitution." Thus, Statutes 1984, chapter 1459 meets the standard of section 17556, subdivision (f), in that it is "necessary to implement [and] reasonably within the scope of" article XIII B, section 6.

Newport Beach argues that the MRP process "is not necessary to implement, nor is even conceivably within the scope of duties necessary to implement the constitutional provisions enacted by the people." Citing that the present claiming instructions consist of 633 pages of forms and instructions, Newport Beach states, "the administrative process was not adopted by the people with the passage of Proposition 9 [sic] which enacted Article XIII B, Section 6. ... The people of the State of California did not envision this sort of process when it enacted Article XIII B, section 6."

Whatever alternatives the Legislature had when enacting the test claim statutes are irrelevant, so long as the statutes are "necessary to implement [or] reasonably within the scope of" the Constitutional initiative that includes article XIII B, section 6. Inasmuch as Statutes 1984, chapter 1459 was enacted to implement the Constitutional ballot initiative that enacted article XIII B, section 6, as the Legislature expressly states in Government Code section 17500, staff finds that section 17556, subdivision (f), applies to this claim.

Therefore, staff finds that test claim statutes do not impose "costs mandated by the state" on local agencies or school districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

## CONCLUSION

Staff finds that because Statutes 1975, chapter 486 was repealed by Statutes 1986, chapter 879, it no longer imposes costs mandated by the state.

Staff also finds that effective July 1, 2006, Statutes 1984, chapter 1459 does not impose a reimbursable state-mandated program on local agencies or school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556, for all activities listed in the *Mandate Reimbursement Process* Statement of Decision (Nos. 4204 & 4485) and parameters and guidelines.

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<sup>33</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1810, citing *Pacific Legal Foundation v. Brown* (1981) 29 Cal. 3d 168, 180.

<sup>34</sup> *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates*, *supra*, 55 Cal. App. 4th 976, 984.

**Recommendation**

Therefore, staff recommends that the Commission adopt this analysis and deny the *Mandate Reimbursement Process* test claim, (Nos. 4204 & 4485), effective July 1, 2006.